

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 28, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 02od-330

OAHU

Amend Prior Board Action of April 28, 2006, Item D-16, Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Access and Utility Purposes and Issuance of Construction of Right-of-Entry, Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-08:05 & 80 por.

BACKGROUND:

On April 28, 2006, item D-16, the Board authorized the issuance of a perpetual easement for access and utility purposes to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. ("HECO/HTI"). A copy of the approved submittal is attached as **Exhibit 1**. The requested easement is to serve the Board of Water Supply (BWS) wells in the area.

Pursuant to the 2006 approval, HECO/HTI was required to pay a one-time payment consideration for the easement. Around June 2010, the Department sent a letter to HECO/HTI demanding a payment of \$4,200 consideration plus \$55 document and map fees.

By the letter dated December 9, 2010 attached as **Exhibit 2**, BWS requests the Board waive the \$4,255 pursuant to 171-95(b)(1), HRS, which is shown as follow:

"(b) In any disposition to public utilities under this section:

(1) The sale price or lease rental shall be no less than the value determined in accordance with section 171-17(b); provided that such sale price or lease rental may be on a nominal basis, if the board finds that such easement is required in connection with a government project;"

HECO indicates in Exhibit 1 that the requested easement was to serve the BWS facility. In addition, BWS supports the same argument by its letter attached as Exhibit 2 that the easement is for the exclusive use and benefit of the BWS at the Waimanalo wells.

According to its website, the Board of Water Supply was created in 1929 pursuant to Act 96, assuming the powers of the former Sewer and Water Commission. Therefore, the BWS facilities

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can be considered as a government project. Further, both HECO and BWS commit above that the subject easement serves only the BWS facilities in the area. Staff has no objections to the waiver request by BWS and recommends the Board amend its prior action by replacing the "one-time payment consideration" with "gratis".

RECOMMENDATION: That the Board:

1. Find that the requested easement is required in connection with a government project.
2. Amend its prior Board action of April 28, 2006, under agenda item D-16 by replacing the "one-time payment consideration" with "gratis".
3. All terms and conditions listed in its April 28, 2006 approval to remain the same.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

020D-330

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 28, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 020d-330

Oahu

Resubmittal: Grant of Perpetual, Non-Exclusive Easement to
Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc.
for Access and Utility Purposes and Issuance of Construction
Right-of-Entry, Waimanalo, Oahu, Tax Map Key: 4-1-08:05 & 80
pors.

APPLICANTS:

Hawaiian Electric Company, Inc. (HECO), a Hawaii corporation,
whose business and mailing address is P.O. Box 2750, Honolulu,
Hawaii 96840-0001 and Hawaiian Telcom, Inc. (HawTel), whose
business and mailing address is P.O. Box 2200, Honolulu, Hawaii
96841

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waimanalo situated at Waimanalo,
Oahu, identified by Tax Map Key: 4-1-08:05 & 80 pors. as shown on
the attached map labeled Exhibit A.

AREA:

71,000 square feet or 1.63 acres, more or less.

ZONING:

State Land Use District: Agriculture
City & County of Waimanalo CZO: AG-1 and AG-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Currently vacant but formerly encumbered under General Lease No.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

April 28, 2006

EXHIBIT "1"

D-16

S-4101, Southern Foods Group, LP, DBA Meadow Gold Dairies for dairy purposes. Cancelled on August 12, 2005.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication and electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

TERM OF RIGHT-OF-ENTRY:

Construction right-of-entry to expire when easement executed.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION: For HECO and HawTel

| | |
|---|-----|
| Place of business registration confirmed: | YES |
| Registered business name confirmed: | YES |
| Applicant in good standing confirmed: | YES |

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 3) Process and obtain subdivision at Applicant's own cost.

REMARKS:

At its June 9, 2005 meeting, the Board deferred action on this request in order for staff to review the existing pole line route formerly servicing Meadow Gold employee residences in relation to the Board of Water Supply route plus the Department of Agriculture's ditch system. These routes were then reviewed in relation to the Department of Hawaiian Home Land's proposed 50-acre acquisition site. As of the date of this submittal, no comments were received from Dept. of Hawaiian Home Lands regarding the HECO's easement pole alignment. Staff recommends issuing the easement as proposed by HECO. The easement document allows for relocation at HECO's expense should this become necessary in the future.

HECO, by letter dated April 26, 2005, is requesting an easement and construction right-of-entry permit (see Exhibit B). A perpetual easement is also being processed with the Board of Water Supply (BWS) who in turn requested HECO to install utility lines to service the site shown within the circled area labeled Proposed Utility line Easement (see Exhibit A). HECO has had a right-of-entry permit for fieldwork inspections since July 29, 2002 and was granted a construction right-of-entry February 17, 2006.

The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

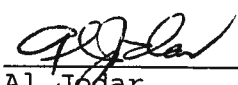
No other agency comments were solicited. (The BWS prepared an environmental assessment for the exploratory well and access road in 1994. The utility line will be located within the waterline and access road easement and should have minimal or no significant effect on the environment and is therefore exempt from the environmental assessment based on Exemption Class #1.)

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;

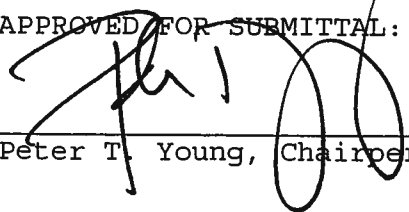
- B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a construction right-of-entry permit to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current construction right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

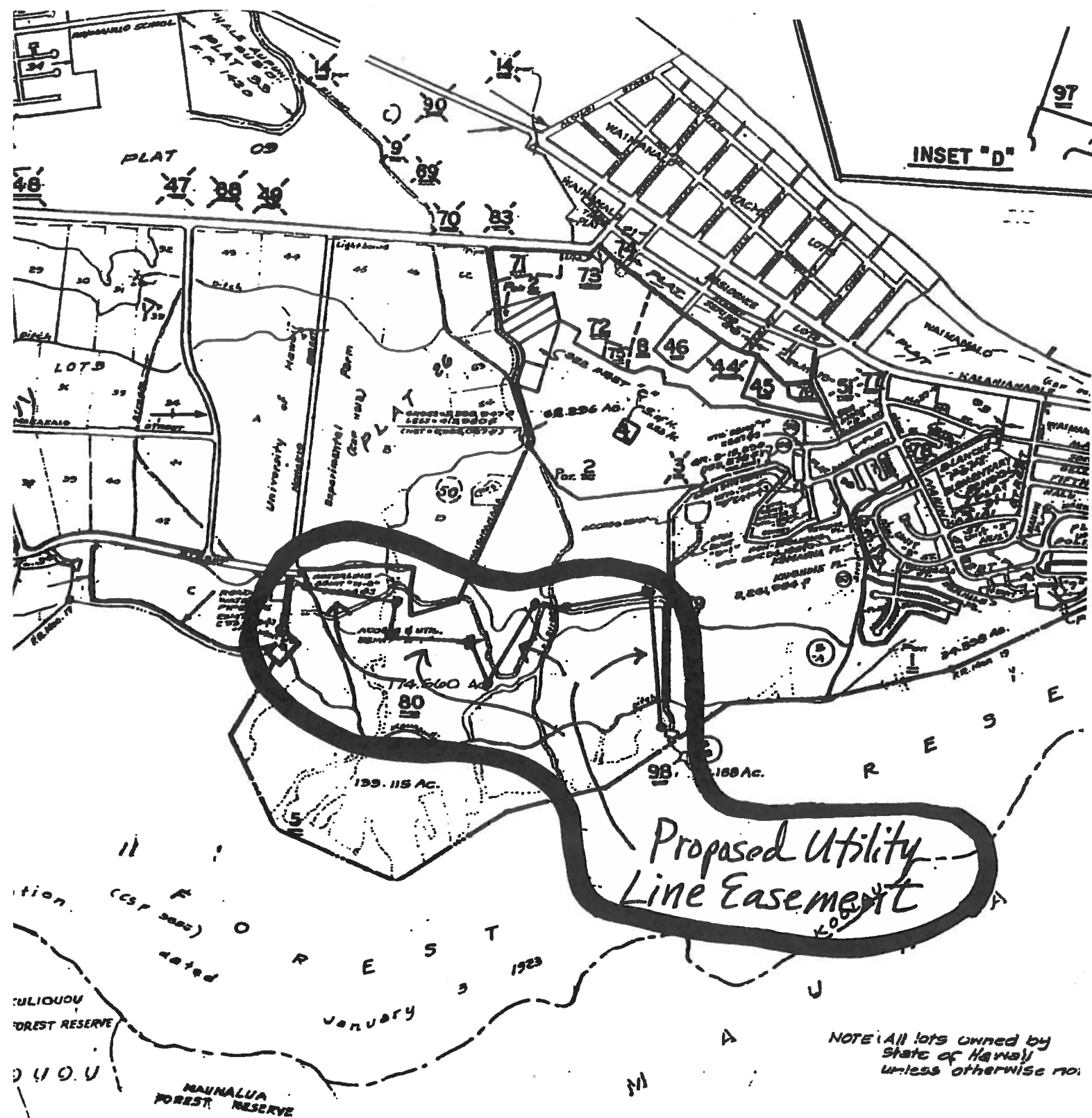


Al Jodar
Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson



SUBJECT TO

RECEIVED
LAND DIVISION

2005 APR 26 A 10:37



April 26, 2005

020d-330

Mr. Al Jodar
Land Division
Department of Land & Natural Resources
P. O. Box 621
Honolulu, HI 96809

Request for Easement and Construction Right of Entry,
BWS Waimanalo Wells III Project,
Waimanalo, Oahu, TMK's 4-1-008:005 and 080 pors.

al
Dear Mr. Jodar:

Pursuant to the Right of Entry dated July 29, 2002 to Hawaiian Electric Company (HECO) for field inspections in connection with the Board of Water Supply Waimanalo Wells III project, the Board of Water Supply has requested the extension of utility services to its proposed facility in the next several months. Consequently, HECO and Hawaiian Telcom, Inc., a Hawaii corporation (successor in interest to Verizon Hawaii Inc.), is respectfully requesting the granting of a non-exclusive perpetual easement and issuance of a construction right of entry for an overhead and underground utility line and appurtenant equipment to serve this facility.

The proposed easement would cover an existing utility line that served the old Meadow Gold facility and a new line extension starting at pole P14/56 and ending at the facility's padmount transformer. Please see the enclosed drawing nos. 34635, rev. 1, and 34636, rev. 3, for the proposed alignment of the line. The total square footage of the line, assuming widths of 10 feet for the line and 5 feet for guy wires/anchors, is estimated at 71,000 square feet, or approximately 1.63 acres, affecting TMK's 4-1-008:005 and 080 pors. (see enclosed tax map).

Because the proposed new line is an extension of an existing utility line on State land and will be located in a corridor encumbered by a waterline and access road easement, we believe that this use will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under the authority of Chapter 343, HRS, and Chapter 11-200 HAR. The declaration of exemption would be based on Exemption Class #1 on the exemption list for the Division of Land



Mr. Al Jodar
April 26, 2005
Page 2

Management, Department of Land and Natural Resources, dated April 28, 1986, that states:

"Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

If you have any questions, or require additional information, you can reach me at 543-4735, or at phil.hauret@heco.com. We appreciate your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Philip Hauret", with a stylized flourish at the end.

Philip Hauret
Senior Land Agent

Enclosures

Cc: Lyn Ing, Hawaiian Telcom (w/encs)



BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



May 23, 2005

MUFI HANNEMANN, Mayor

EDDIE FLORES, JR., Chairman
HERBERT S. K. KAOPUA, SR.
DAROLYN H. LENDIO
RANDALL Y. S. CHUNG
SAMUEL T. HATA

RODNEY K. HARAGA, Ex-Officio
LAVERNE HIGA, Ex-Officio

CLIFFORD S. JAMILE
Manager and Chief Engineer

DONNA FAY K. KIYOSAKI
Deputy Manager and Chief Engineer

Mr. Al Jodar, Land Agent
State of Hawaii
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Jodar:

Subject: Request for Granting of Easements for Electrical Purposes in favor of
HECO, in conjunction with Board of Water Supply's Waimanalo Wells
project at Waimanalo, Koolauloko, Oahu - TMK: 4-1-08:05

The Board of Water Supply (BWS) hereby confirms that the electrical easement(s) in favor of HECO is for the use and benefit of the BWS' Waimanalo Wells. Please accept and process HECO easement(s) on our behalf.

Thank you for your cooperation in the processing of our Right-of-Entry document. The project was awarded to Jas. W. Glover, Ltd. and the construction have started on schedule.

If there are any questions, please call me at 748-5913.

Very truly yours,

SHIRLEY SAFFERY
Land Agent, Water Resources

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



RECEIVED
LAND DIVISION

December 9, 2010 DEC -9 P 1:26

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

PETER B. CARLISLE, MAYOR

RANDALL Y. S. CHUNG, Chairman
ANTHONY R. GUERRERO, JR.
WILLIAM K. MAHOE
THERESIA C. McMURDO
ADAM C. WONG

GEORGE "KEOKI" MIYAMOTO, Ex-Officio
MICHAEL D. FORMBY, Ex-Officio

WAYNE M. HASHIRO, P.E.
Manager and Chief Engineer

DEAN A. NAKANO
Deputy Manager

Mr. William J. Aila, Interim Chairperson
State of Hawaii
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809

Attention: Mr. Barry Cheung
District Land Agent

Dear Mr. Aila:

Subject: Request for Perpetual, Non-Exclusive Easement for Access and Utility
Purposes in Waimanalo, Koolau, Oahu; TMK (1)4-1-008: 005 and 080

The Board of Water Supply (BWS) hereby confirms that the electrical easement(s) in favor of HECO, at TMK 4-1-008: 005 and 080, is for the exclusive use and benefit of the BWS at our Waimanalo Wells. Please waive your fees of \$4,255.00 pursuant HRS 171-95 (b1).

If there are any questions, please call Joan White at 748-5914.

Very truly yours,

JONATHAN M. SUZUKI
Land Administrator

EXHIBIT "2"